

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**November 24, 2004**

<b>IN RE:</b>	)	
	)	
<b>PETITION FOR APPROVAL OF</b>	)	<b>DOCKET NO.</b>
<b>AMENDMENT TO THE</b>	)	<b>04-00308</b>
<b>INTERCONNECTION AGREEMENT</b>	)	
<b>BETWEEN TDS TELECOM AND</b>	)	
<b>US LEC OF TENNESSEE INC.</b>	)	

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**ORDER APPROVING  
SECOND AMENDMENT TO THE INTERCONNECTION AGREEMENT**

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This matter came before Director Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 8, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the second amendment to the interconnection agreement negotiated between Concord Telephone Exchange, Inc., Tennessee Telephone Company, Humphreys County Telephone Company and Tellico Telephone Company, Inc. (collectively "TDS TELECOM") and US LEC of Tennessee Inc.

The original interconnection agreement between these parties was filed on June 24, 2003, and the first amendment<sup>1</sup> thereto was filed on August 18, 2003. Both filings were approved at a regularly scheduled Authority Conference on September 8, 2003. The second amendment, which is the subject of this docket, was filed on September 22, 2004.

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<sup>1</sup> The first amendment is the Disaster Recovery Plan filed by TDS TELECOM

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104 (2004).

2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the service area of TDS TELECOM.

3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>2</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104 (2004).

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<sup>2</sup> See 47 U.S.C. § 252(e)(2)(B)

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the second amendment to the interconnection agreement negotiated between Concord Telephone Exchange, Inc., Tennessee Telephone Company, Humphreys County Telephone Company and Tellico Telephone Company, Inc. (collectively "TDS TELECOM") and US LEC of Tennessee Inc. is approved and is subject to the review of the Authority as provided herein.

  
Deborah Taylor Tate, Director

  
Sara Kyle, Director

  
Ron Jones, Director